

109TH CONGRESS
1ST SESSION

H. R. 886

To extend certain trade preferences to certain least-developed countries, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. KOLBE (for himself and Mr. CROWLEY) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To extend certain trade preferences to certain least-developed
countries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tariff Relief Assist-
5 ance for Developing Economies Act of 2005” or as the
6 “TRADE Act of 2005”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds the following:

9 (1) It is in the mutual interest of the United
10 States and least developed countries to promote sta-

1 ble and sustainable economic growth and develop-
2 ment.

3 (2) Increased trade and investment are power-
4 ful tools countries can use to reduce poverty and
5 raise living standards.

6 (3) Openness to trade boosts economic growth.

7 (4) Twenty-five percent of the world's popu-
8 lation survives on less than one dollar per day.

9 (5) Unemployment rates in least developed
10 countries are extremely high, including rates in some
11 countries of up to 70 percent.

12 (6) Trade and investment lead to employment
13 opportunities and can help alleviate poverty.

14 (7) Least developed countries have a particular
15 challenge in meeting the economic requirements and
16 competitiveness of globalization and international
17 markets.

18 (8) The United States has recognized the im-
19 portance of these challenges and the benefits of
20 trade to least developed countries by enacting the
21 Generalized System of Preferences and subsequent
22 benefits for developing countries in the Caribbean,
23 Andean, and sub-Saharan African regions of the
24 world.

1 (9) The challenges of the global trading envi-
2 ronment for least developed countries are even great-
3 er given the expiration of the Multi-Fiber Arrange-
4 ment in 2005, and certain least developed countries,
5 including Bangladesh, Cambodia, and Nepal, are
6 particularly vulnerable to the changes that will result
7 from the expiration of that Arrangement.

8 (10) Responding to the needs of least developed
9 countries would be consistent with other trade objec-
10 tives of the United States, including encouraging
11 forward progress on the WTO Doha Development
12 Round.

13 (11) Enhanced trade with the Muslim least de-
14 veloped countries, including Yemen, Afghanistan,
15 and Bangladesh, would be consistent with other ob-
16 jectives of the United States of encouraging strong
17 private sectors and individual economic empower-
18 ment in those countries.

19 (12) Offering the least developed countries en-
20 hanced trade preferences will encourage both higher
21 levels of trade and direct investment in support of
22 positive economic and political developments
23 throughout the region and the world.

24 (13) Encouraging the reciprocal reduction of
25 trade and investment barriers will enhance the bene-

1 fits of trade and investment as well as enhance com-
2 mercial and political ties between the United States
3 and the beneficiary countries.

4 (14) Economic opportunity and engagement in
5 the global trading system, together with support for
6 democratic institutions and a respect for human
7 rights, are mutually reinforcing objectives and key
8 elements of a policy to confront and defeat global
9 terrorism.

10 (15) A powerful earthquake and tsunami struck
11 in the Indian Ocean on December 26, 2004.

12 (16) The destruction caused by the tsunami in
13 Sri Lanka caused the death of more than 30,000
14 people and left physical damage equal to approxi-
15 mately 6.5 percent of the Sri Lankan economy.

16 (17) The effects of lost businesses and recon-
17 struction costs due to the tsunami damage will lead
18 to a drop in the economic growth of Sri Lanka.

19 (18) Senate Resolution 4 of the 109th Con-
20 gress, agreed to unanimously on January 4, 2005,
21 expressed the support of the Senate for the long-
22 term commitment of the United States to provide fi-
23 nancial aid and other forms of assistance to the
24 countries and peoples of the region affected by the
25 earthquake and the tsunami.

1 (19) Duty preferences given to imports into the
2 United States of products of Sri Lanka will help Sri
3 Lanka rebuild and overcome the economic destruc-
4 tion caused by the tsunami.

5 **SEC. 3. AUTHORITY TO DESIGNATE; ELIGIBILITY REQUIRE-**
6 **MENTS.**

7 (a) AUTHORITY TO DESIGNATE.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, the President is authorized to des-
10 ignate a country listed under subsection (b) as a
11 TRADE Act of 2005 beneficiary country eligible for
12 benefits described in section 4—

13 (A) if the President determines that the
14 country meets the requirements set forth in sec-
15 tion 104 of the African Growth and Oppor-
16 tunity Act (19 U.S.C. 3703); and

17 (B) subject to the authority granted to the
18 President under subsections (a), (d), and (e) of
19 section 502 of the Trade Act of 1974 (19 U.S.
20 C. 2462 (a), (d), and (e)), if the country other-
21 wise meets the eligibility criteria set forth in
22 section 502 of that Act.

23 (2) APPLICATION OF SECTION 104.—Section
24 104 of the African Growth and Opportunity Act
25 shall be applied for purposes of paragraph (1) by

1 substituting “TRADE Act of 2005 beneficiary coun-
2 try” for “beneficiary sub-Saharan African country”
3 each place that term appears.

4 (b) COUNTRIES ELIGIBLE FOR DESIGNATION.—

5 (1) IN GENERAL.—The countries eligible for
6 designation under subsection (a) are the following or
7 their successor political entities:

8 (A) Afghanistan.

9 (B) Bangladesh.

10 (C) Bhutan.

11 (D) Cambodia.

12 (E) Kiribati.

13 (F) Lao People’s Democratic Republic.

14 (G) Maldives.

15 (H) Nepal.

16 (I) Samoa.

17 (J) Solomon Islands.

18 (K) Timor-Leste (East Timor).

19 (L) Tuvalu.

20 (M) Vanuatu.

21 (N) Yemen.

22 (2) SRI LANKA ECONOMIC EMERGENCY SUP-
23 PORT.—The President may also designate Sri Lanka
24 as a TRADE Act of 2005 beneficiary country eligi-
25 ble for benefits described in section 4.

1 **SEC. 4. TRADE ENHANCEMENT.**

2 (a) PREFERENTIAL TARIFF TREATMENT FOR CER-
3 TAIN ARTICLES.—

4 (1) IN GENERAL.—The President may provide
5 duty-free treatment for any article described in sec-
6 tion 503(b)(1) (B) through (G) of the Trade Act of
7 1974 (19 U.S.C. 2463(b)(1)(B) through (G)) that is
8 the growth, product, or manufacture of a TRADE
9 Act of 2005 beneficiary country if, after receiving
10 the advice of the International Trade Commission in
11 accordance with section 503(e) of the Trade Act of
12 1974, the President determines that such article is
13 not import-sensitive in the context of imports from
14 TRADE Act of 2005 beneficiary countries.

15 (2) RULES OF ORIGIN.—The duty-free treat-
16 ment provided under paragraph (1) shall apply to
17 any article described in that paragraph that meets
18 the requirements of section 503(a)(2) of the Trade
19 Act of 1974, except that—

20 (A) if the cost or value of materials pro-
21 duced in the customs territory of the United
22 States is included with respect to that article,
23 an amount not to exceed 15 percent of the ap-
24 praised value of the article at the time it is en-
25 tered that is attributed to such United States
26 cost or value may be applied toward deter-

1 mining the percentage referred to in subpara-
2 graph (A) of section 503(a)(2) of the Trade Act
3 of 1974; and

4 (B) the cost or value of the materials in-
5 cluded with respect to that article that are pro-
6 duced in one or more TRADE Act of 2005 ben-
7 eficiary countries or former TRADE Act of
8 2005 beneficiary countries shall be applied in
9 determining such percentage.

10 (b) TEXTILE AND APPAREL ARTICLES.—

11 (1) PREFERENTIAL TREATMENT.—Textile and
12 apparel articles described in paragraphs (2), (3),
13 and (4) that are imported directly into the customs
14 territory of the United States from a TRADE Act
15 of 2005 beneficiary country shall enter the United
16 States free of duty and free of any quantitative limi-
17 tations in accordance with the requirements of such
18 paragraphs, if the country has satisfied the require-
19 ments set forth in section 113 of the African Growth
20 and Opportunity Act (19 U.S.C. 3722). In applying
21 such section 113—

22 (A) “TRADE Act of 2005 beneficiary
23 country” and “TRADE Act of 2005 beneficiary
24 countries” shall be substituted for “beneficiary
25 sub-Saharan African country” and “beneficiary

1 sub-Saharan African countries”, respectively,
2 each place such terms appear;

3 (B) “TRADE Act of 2005 beneficiary
4 countries” shall be substituted for “countries in
5 sub-Saharan Africa” in section 113(b)(5); and

6 (C) any reference to preferential treatment
7 under “section 112(a)”, “section 112”, or “this
8 Act” shall be deemed to refer to preferential
9 treatment under this subsection.

10 (2) APPAREL ARTICLES ASSEMBLED IN TRADE
11 ACT OF 2005 BENEFICIARY COUNTRIES.—The pref-
12 erential treatment under paragraph (1) shall apply
13 to apparel articles described in paragraphs (1) and
14 (2) of subsection (b) of section 112 of the African
15 Growth and Opportunity Act (19 U.S.C. 3721(b)(1)
16 and (2)), except that such paragraphs shall be ap-
17 plied for purposes of this paragraph by substituting
18 “TRADE Act of 2005 beneficiary country” and
19 “TRADE Act of 2005 beneficiary countries” for
20 “beneficiary sub-Saharan African country” and
21 “beneficiary sub-Saharan African countries”, respec-
22 tively, each place such terms appear.

23 (3) APPAREL ARTICLES ASSEMBLED FROM RE-
24 GIONAL AND OTHER FABRIC.—The preferential
25 treatment under paragraph (1) shall apply to ap-

1 parel articles that are wholly assembled in one or
2 more TRADE Act of 2005 beneficiary countries or
3 former TRADE Act of 2005 beneficiary countries,
4 or both, from fabric wholly formed in one or more
5 TRADE Act of 2005 beneficiary countries or former
6 TRADE Act of 2005 beneficiary countries, or both,
7 from yarn originating either in the United States or
8 one or more TRADE Act of 2005 beneficiary coun-
9 tries or former TRADE Act of 2005 beneficiary
10 countries, or both (including fabrics not formed from
11 yarns, if such fabrics are classifiable under heading
12 5602 or 5603 of the Harmonized Tariff Schedule of
13 the United States and are wholly formed and cut in
14 the United States, one or more TRADE Act of 2005
15 beneficiary countries or former TRADE Act of 2005
16 beneficiary countries, or any combination thereof),
17 whether or not the apparel articles are also made
18 from any of the fabrics, fabric components formed,
19 or components knit-to-shape to which paragraph (1)
20 of this subsection applies (unless the apparel articles
21 are made exclusively from any of the fabrics, fabric
22 components formed, or components knit-to-shape to
23 which paragraph (1) of this subsection applies), sub-
24 ject to the following:

25 (A) LIMITATIONS ON BENEFITS.—

1 (i) IN GENERAL.—Preferential treat-
2 ment under this paragraph shall be ex-
3 tended in the 1-year period beginning Jan-
4 uary 1, 2005, and in each of the suc-
5 ceeding 10 1-year periods, to imports of
6 apparel articles described in this subpara-
7 graph in an amount not to exceed the ap-
8 plicable percentage of the aggregate square
9 meter equivalents of all apparel articles im-
10 ported into the United States in the pre-
11 ceding 12-month period for which data are
12 available.

13 (ii) APPLICABLE PERCENTAGE.—For
14 purposes of this subparagraph, the term
15 “applicable percentage” means 11 percent
16 for the 1-year period beginning January 1,
17 2005, increased in each of the 10 suc-
18 ceeding 1-year periods by equal incre-
19 ments, so that for the period beginning
20 January 1, 2014, the applicable percentage
21 does not exceed 14 percent.

22 (B) SPECIAL RULE.—

23 (i) IN GENERAL.—Subject to subpara-
24 graph (A), preferential treatment described
25 in this paragraph shall be extended

1 through December 31, 2011, to apparel ar-
2 ticles wholly assembled in one or more
3 TRADE Act of 2005 beneficiary countries
4 or former TRADE Act of 2005 beneficiary
5 countries, or both, regardless of the coun-
6 try of origin of the yarn or fabric used to
7 make such articles.

8 (ii) COUNTRY LIMITATIONS.—

9 (I) SMALL SUPPLIERS.—If dur-
10 ing the preceding 1-year period begin-
11 ning on January 1 for which data are
12 available, imports into the United
13 States of apparel articles from a
14 TRADE Act of 2005 beneficiary
15 country are less than 1 percent of the
16 aggregate square meter equivalents of
17 all apparel articles imported into the
18 United States during such period,
19 then imports under this subparagraph
20 from that country may increase to an
21 amount that is equal to not more than
22 1.5 percent of the aggregate square
23 meter equivalents of all apparel arti-
24 cles imported into the United States
25 during such period.

1 (II) OTHER SUPPLIERS.—If dur-
2 ing the preceding 1-year period begin-
3 ning on January 1 for which data are
4 available, imports from a TRADE Act
5 of 2005 beneficiary country are at
6 least 1 percent (or, in the case of a
7 country to which subclause (I) applies,
8 1.5 percent) of the aggregate square
9 meter equivalents of all apparel arti-
10 cles imported into the United States
11 during such period, imports under
12 this clause from that country may in-
13 crease, during each subsequent 12-
14 month period, by an amount that is
15 equal to not more than one-third of 1
16 percent of the aggregate square meter
17 equivalents of all apparel articles im-
18 ported into the United States.

19 (III) AGGREGATE COUNTRY
20 LIMIT.—In no case may the aggregate
21 quantity of textile and apparel articles
22 imported into the United States under
23 this subparagraph exceed the applica-
24 ble percentage set forth in subpara-
25 graph (A).

1 (C) SURGE MECHANISM.—Subparagraph
 2 (C) of section 112(b)(3) of the African Growth
 3 and Opportunity Act (19 U.S.C. 3721(b)(3))
 4 shall apply with respect to the preferential
 5 treatment extended under this paragraph to a
 6 TRADE Act of 2005 beneficiary country, ex-
 7 cept that, in applying such paragraph—

8 (i) “TRADE Act of 2005 country”
 9 shall be substituted for “sub-Saharan Afri-
 10 can country”; and

11 (ii) references to “this paragraph”
 12 shall be deemed to refer to subparagraphs
 13 (A) and (B) of this paragraph.

14 (4) OTHER PROVISIONS.—The preferential
 15 treatment described in paragraph (1) shall apply to
 16 articles described in paragraphs (4), (5), (6), and
 17 (7) of section 112(b) of the African Growth and Op-
 18 portunity Act (19 U.S.C. 3721(b)(4), (5), (6), and
 19 (7)), except that—

20 (A) such paragraphs shall be applied by
 21 substituting “TRADE Act of 2005 beneficiary
 22 country” for “beneficiary sub-Saharan African
 23 country” and “TRADE Act of 2005 beneficiary
 24 countries” for “beneficiary sub-Saharan African
 25 countries” each place such terms appear; and

1 (B) in applying paragraph (6)(B) of such
2 section—

3 (i) the references to “African” prints
4 and “African” market or markets shall be
5 deemed to refer to prints and the market
6 of the TRADE Act of 2005 beneficiary
7 country concerned; and

8 (ii) the reference to “Africa” shall be
9 deemed to refer to the TRADE Act of
10 2005 beneficiary country concerned.

11 (5) SPECIAL RULES.—Subsection (d) of section
12 112 of the African Growth and Opportunity Act (19
13 U.S.C. 3721(d)) shall apply to articles of TRADE
14 Act of 2005 beneficiary countries to the same extent
15 that such subsection applies to articles of beneficiary
16 sub-Saharan African countries, except that, in apply-
17 ing such subsection—

18 (A) references to preferential treatment
19 “under this section” shall be deemed to refer to
20 preferential treatment under this subsection;

21 (B) the reference in paragraph (1)(C) of
22 such subsection (d) to “an article described in
23 subsection (b)(2)” shall be deemed to refer to
24 such an article as applied under paragraph (2)
25 of this subsection; and

1 (C) the reference in paragraph (3) of such
2 subsection (d) to the “requirements set forth in
3 subsection (b)” shall be deemed to refer to the
4 requirements under this subsection.

5 **SEC. 5. REPORTING REQUIREMENT.**

6 The President shall monitor, review, and report to
7 Congress, not later than 1 year after the date of the enact-
8 ment of this Act, and annually thereafter, on the imple-
9 mentation of this Act and on the trade and investment
10 policy of the United States with respect to the TRADE
11 Act of 2005 beneficiary countries.

12 **SEC. 6. DEFINITIONS.**

13 In this Act:

14 (1) TRADE ACT OF 2005 BENEFICIARY COUN-
15 TRY.—The term “TRADE Act of 2005 beneficiary
16 country” means a country listed in subsection (b) of
17 section 3 that the President has determined is eligi-
18 ble for preferential treatment under this Act.

19 (2) FORMER TRADE ACT OF 2005 BENEFICIARY
20 COUNTRY.—The term “former TRADE Act of 2005
21 beneficiary country” means a country that, after
22 being designated as a TRADE Act of 2005 bene-
23 ficiary country under this Act, ceased to be des-
24 ignated as such a country by reason of its entering
25 into a free trade agreement with the United States.

1 **SEC. 7. TERMINATION OF PREFERENTIAL TREATMENT.**

2 No duty-free treatment or other preferential treat-
3 ment extended under this Act to a TRADE Act of 2005
4 beneficiary country shall remain in effect after December
5 31, 2014.

6 **SEC. 8. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Subject to subsection (b), this Act
8 applies to goods entered, or withdrawn from warehouse
9 for consumption, on or after the date of the enactment
10 of this Act.

11 (b) RETROACTIVE APPLICATION.—Notwithstanding
12 section 514 of the Tariff Act of 1930 (19 U.S.C. 1514)
13 or any other provision of law, upon proper request filed
14 with the Bureau of Customs and Border Protection before
15 the 90th day after the date of the enactment of this Act,
16 any entry, or withdrawal from warehouse for consumption,
17 of any good—

18 (1) that was made on or after January 1, 2005,
19 and before the date of the enactment of this Act,
20 and

21 (2) with respect to which there would have been
22 no duty if such entry or withdrawal had been made
23 on such date of enactment,
24 shall be liquidated or reliquidated as if such entry or with-
25 drawal had occurred on such date of enactment.

